



TELTRUST®

August 15, 1996

William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

RECEIVED
AUG 16 1996
FCC MAIL ROOM

Re: CC Docket No. 92-77
Billed Party Preference for
InterLata 0+ Calls

DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

On behalf of Teltrust Communications Services, Inc., please find enclosed an original and ten (10) copies of Teltrust's Reply Comments in the above captioned proceeding.

Please do not hesitate to contact me should you have any questions or require additional information concerning this matter.

Sincerely,

Steven E. Swenson
Vice President and General Counsel

/sc

Enclosure

Number of Copies rec'd
10000
0411

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Billed Party Preference)
for InterLATA 0+ Calls)

CC Docket No. 92-77

RECEIVED
JUN 16 1996
FCC MAIL ROOM

**REPLY COMMENTS OF TELTRUST COMMUNICATIONS SERVICES, INC.
TO THE COMMISSIONS SECOND FURTHER NOTICE OF PROPOSED RULEMAKING**

Teltrust Communications Services, Inc. ("Teltrust") submits these reply comments in response to the Commission's Second Further Notice of Proposed Rulemaking, FCC 96-253, CC Docket No. 92-77 released June 6, 1996 in the above-captioned docket (the "Second Further Notice").

Teltrust was originally founded as an Independent Payphone Provider and has been active in the payphone industry since its inception. In 1995, Teltrust sold its payphone business in order to focus on its fast-growing agent (i.e. operator services) and network services business. Teltrust now provides operator and network services to a variety of customers including Interexchange Carriers ("IXCs"), Competitive and Incumbent Local Exchange Carriers, Independent Payphone Providers, hospitality and other Aggregators, cellular and personal communications services companies and prepaid calling card companies.

As an early payphone provider and as a leading provider of agent and network services to IPPs and Aggregators, Teltrust has been actively involved in this proceeding and is vitally interested in its outcome.

A. THE COMMISSION SHOULD ADOPT THE RATE CEILING AND SIMPLIFIED ENFORCEMENT MECHANISMS PROPOSED BY THE COMPTTEL COALITION.

Billed Party Preference ("BPP") now enjoys virtually no support among key participants in this proceeding. Over the last six years, BPP has been rendered totally unnecessary by the many changes in the regulatory environment and the marketplace itself. The Commission must now address the lingering concern that, in certain limited instances, consumers dialing 0+ from payphones and aggregator locations are charged rates which are excessive. Teltrust believes that the Commission is correct in its conclusion that BPP is no longer in the public interest. Nevertheless, the proposals advanced by the Commission as alternatives to BPP

in the Second Further Notice; specifically, the Commission's proposal to establish a benchmark based upon the rates of AT&T, MCI and Sprint and, secondly, to implement some form of oral rate disclosure requirement, are over-regulatory, excessive, unnecessary and unworkable from both a legal and practical standpoint. In advocating these proposals, the Commission (1) significantly overstates the consumer complaint problem while understating the many benefits achieved as a result of the marketplace itself and TOCSIA; and (2) rests its desire to tie OSP rates to AT&T, MCI and Sprint on the tremendously flimsy assumption that these Big 3 carrier rates are the definitive indicator of "consumer expectations". The Commission's proposals in the Second Further Notice seem to clearly contradict the deregulatory spirit of the Telecommunications Act of 1996.

Nevertheless, Teltrust has always acknowledged that a rate-gouging problem exists and that the Commission must take some limited action to deter further abuse. However, emphasis should be placed on the word *limited*. Teltrust is on record in support of the rate ceiling and enforcement mechanisms proposed by the American Public Communications Counsel ("APCC"), the Competitive Telecommunications Association ("COMPTTEL"), NYNEX, BellAtlantic, BellSouth, US West, MFS Communications and Teleport Communications Group (the "Coalition Rate Ceiling"). Teltrust helped formulate this proposal and continues to believe that this is by far the best proposal advanced in this proceeding. Teltrust need not repeat in detail what are the obvious benefits of the Coalition Rate-Ceiling. Teltrust should point out, however, that the Coalition Rate-Ceiling was crafted by a broad spectrum of companies, from IXCs and Regional Bell Operating Companies ("RBOCs") to IPPs, and therefore enjoys the widest support of any proposal. Teltrust concurs with those commentators who have pointed out that the Coalition Rate-Ceiling enjoys such broad support primarily because it is the least intrusive method of solving the rate-gouging problem while at the same time accounting for the varying cost structures and competitive disadvantages experienced by smaller OSPs. If, in fact, the Commission determines that it must establish a benchmark above which carriers must inform consumers of the rate charged, then Teltrust believes that Coalition Rate-Ceiling should be the threshold adopted by the Commission.

Teltrust cannot support the Commission's proposal to establish a benchmark at the rates of AT&T, MCI and Sprint plus an additional percentage. First, Teltrust believes COMPTTEL has convincingly identified the many significant legal problems with this proposal, to wit:

- To arbitrarily tie OSP rates to those of the Big 3, without analysis of cost and without a finding that rates above the big three are unjust and unreasonable, would clearly contravene the specific statutory mandates of TOCSIA.
- The Commission proposal is not authorized by the Commission's power to engage in industry-wide rulemaking and cannot be justified under other provisions of the Communications Act.
- The proposal rests on the incorrect assumption that the rates of the Big 3 carriers reflect consumer expectation.
- The proposal will deny small OSPs equal protection of the laws, by granting preferences to the largest carriers while penalizing smaller carriers.¹

Second, Teltrust is convinced that a benchmark arbitrarily tied to the rates of the Big 3 carriers is discriminatory and will significantly impair the ability of smaller carriers to compete in the market. In this regard, the comments of Communications Central, Inc. ("CCI"), one of the largest IPPs in the country, are instructive:

If rate benchmarks are enacted with only 15 percent additional margin, it is likely that all payphone service providers will be forced to use AT&T, MCI and Sprint as their presubscribed carrier, thus eliminating any meaningful choice of carrier for competitive PSPs and customers.²

B. ADDITIONAL DISCLOSURE REGARDING RATES IS ONLY APPROPRIATE FOR CARRIERS WHOSE RATES EXCEED THE COALITION RATE-CEILING.

The Commission has proposed that OSPs charging rates in excess of the established benchmark, be required to inform callers, via some form of oral rate quote, of the actual call charges prior to a call being completed. In the alternative, the Commission seeks comment on whether it should require OSPs to inform callers of a "representative" call i.e. either disclose the "average" price of a seven minute call or of the "highest" price of a seven minute call. The Commission also seeks comment on whether it should mandate some form of oral rate quotes on all 0+ calls. Teltrust certainly believes informing consumers of applicable call charges prior to call completion has obvious appeal. However, advocates of this approach have, Teltrust believes,

¹ See Comments of Competitive Telecommunications Association, July 17, 1996 at pp. 4-14.

² See Comments of Communications Central, Inc., July 17, 1996 at p. 5.

clearly underestimated the costs and mountain of technical problems which would have to be overcome in order to implement such a system. Teltrust therefore believes additional disclosure regarding rates should only be required in the event a carrier's rates exceed the Comptel Rate-Ceiling, and, in this instance, the only appropriate rate disclosure should be a uniform, neutral rate announcement .

1. A Real-Time Rate Disclosure Requirement is Extremely Problematic.

Teltrust does not favor a requirement that OSPs be required to inform callers of actual call charges prior to call completion. Teltrust does not believe that the Commission should mandate such a requirement either for carriers exceeding the Coalition Rate-Ceiling or on all 0+ calls.

Development and implementation of a brand which provides actual call charges prior to call completion and in an automated environment will be very difficult to develop, implement and maintain. Moreover, such a system would be expensive and time-consuming to implement. Comment on this proposal has been anything but uniform primarily because OSPs utilize different switching platforms. In some instances, Teltrust is aware of OSPs that utilize the same switch equipment, but one has written its own proprietary operating software in order to obtain specific and unique value added functionalities. Therefore, while some OSPs may use similar equipment, it does not necessarily follow that each can easily implement a real-time rate quote function. Teltrust can only speak for itself on this point.

Currently, Teltrust cannot (barring live operator intervention) currently quote rates prior to call completion; Teltrust's switch software is simply not able to perform this function at this time. Teltrust has contacted its switch vendor to determine whether this function could be developed, and if so, how much it would cost and how long it would take to develop and implement. Teltrust's vendor is currently looking at Teltrust's (and undoubtedly other carriers) request in specific detail.

Nevertheless, the preliminary information Teltrust has obtained from its vendor suggest that development, implementation and maintenance of such a system would be complex and time consuming. Teltrust's vendor has stated that, while it cannot currently perform this function, many of the components required to implement such a system do exist today. The difficulty lies in attempting to bringing these pieces together in the operator services environment. For example, Teltrust provides wholesale prepaid calling card services to various clients and utilizes the same switch type as that used for its operator services business.

However, the software operating Teltrust's operator services platform is entirely separate from the software running Teltrust's prepaid calling card platform. The software operating Teltrust's prepaid calling card platform does perform functions like that which would be required to quote rates to callers prior to call completion. For instance, when a prepaid calling card user accesses the prepaid calling card platform, the caller, after entering his or her authorization code, is informed via an automated voice unit the amount of time remaining on the prepaid calling card prior to call completion. To perform this function, the software queries a data-base containing rate information applicable to that particular prepaid calling card. Obviously, a similar data-base query would have to be performed in the operator services environment in order to provide callers with actual call charges prior to call completion.

Despite the similarities, Teltrust's vendor has acknowledged that development of a real-time rate disclosure ability would be far more complex in the operator services environment than in the prepaid calling card arena. Many of the reasons for this have been highlighted by other commentors. First, a real-time rate disclosure requirement would be extremely problematic in light of the innumerable variations and permutations in rates, mileage bands, operator charges, location charges and other charges. As was appropriately noted by Cleartel Communications, Inc. and Conquest Operator Services Corporation in their Comments, to provide accurate rate information to consumers regarding a particular type of call, OSPs would be required to maintain a database that would contain area code ("NPA") and central office code ("NPA-NXX") combinations that could be accessed in real time and in advance of call completion.³ The database would have to then cross-reference this information with appropriate rating information, which as mentioned, comes in numerous permutations and variations. The database would then have to identify rates for hundreds of thousands of different call scenarios. Without question, maintenance of such a database would be costly and difficult to maintain. Moreover, Teltrust is certain that such a system would be prone to error and would confuse and aggravate consumers.

Second, many commenters have rightly identified that a real-time rate disclosure requirement would result in longer call set up times, and would create additional aggravation to consumers.

³ See Comments of Cleartel Communications Services, Inc. and Conquest Operator Services Corp. July 17, 1996 at pp. 14-16.

Finally, Teltrust's switch vendor has estimated that development of a real-time rate disclosure functionality would require, most likely, an entire rewrite of the operating software currently used by Teltrust. Teltrust's vendor speculated that this would take at least nine to twelve months. Therefore, if the Commission were to require that carriers provide real-time rate disclosure on all calls, Teltrust would recommend that carriers be given phase in period of at least a year and a half from the date of the mandate.

2. Disclosure of Rates for a "Representative" Seven-Minute Call Would Be Misleading.

Teltrust does not believe that the Commission's proposed alternatives to a real-time rate disclosure requirement have merit either. The Commission proposes, as an alternative, that OSPs should disclose their "highest" charge for a seven-minute call or, if this would be too misleading, to disclose their "average" (appropriately weighted) seven-minute rate for a like call. While either of these alternatives would be easier to implement than the real-time option, Teltrust believes that neither is workable. Teltrust agrees with the many commenters that have noted that either of these approaches would be extremely misleading to consumers and would, in all likelihood, simply scare consumers away.

Teltrust therefore believes that any rate disclosure beyond that already mandated by TOCSIA is unnecessary once the Commission adopts the Coalition Rate-Ceiling. If the Commission's determines that rate disclosure is necessary, it should only be required for OSPs charging rates that exceed the Coalition Rate-Ceiling. Furthermore, Teltrust believes that none of the three rate disclosure alternatives discussed in the Second Further Notice are workable approaches. Teltrust believes that OSPs exceeding the Coalition Rate Ceiling should be required, if anything, to disclose a uniform, neutral disclaimer like that proposed by Cleartel Communications, Inc. and Conquest Operator Services, Corp.⁴

C. THE RATE CEILING MUST BE UNIFORMLY APPLIED AND EFFECTIVELY POLICED AGAINST UNSCRUPULOUS METHODS OF SKIRTING THE CEILING.

Teltrust believes that any rate ceiling adopted must be uniformly applied and vigorously enforced. One area where the Commission should establish uniformity, particularly in a rate cap environment, is in how carriers can and should time calls. As Intellical has noted in prior comments in this proceeding, some OSPs

⁴ Cleartel and Conquest propose the following disclaimer: "The rates for calls from this telephone may be different than rates you would pay from your home. If you would like to receive specific rate information before you place your call, please hang up and dial 1-800-XXX-XXXX." See Comments of Cleartel Communications, Inc. and Conquest Operator Services Corp., July 17, 1996 at p. 18.

begin charging (for completed calls) at the time the calling party is connected to the OSP's network, as opposed to when the called party answers the phone.⁵ Thus, the total charge for the call includes the time required for call set-up, validation, call extension and actual conversation time. Teltrust agrees with Intellical that consumers expect to be charged for conversation time only. However, a compelling argument could be made that there is no reason why the consumer should not pay for the entire call including call set-up and validation. Call set-up and validation are, indeed, legitimate and necessary cost components of the call. Regardless, the Commission should establish certain minimum requirements in this area to ensure uniformity and fairness. The Commission should, as Intellical has noted, define whether rating applies to total network connection time or only to conversation time.

In addition, the Commission should vigorously enforce the rate-ceiling and be on guard for creative (but nevertheless fraudulent) methods of skirting the rate ceiling. Teltrust has seen a number tricks employed by unscrupulous carriers, to undermine state rate ceilings and defraud consumers. For instances, Teltrust has seen instances where carriers manipulate call timing parameters (whether in the switch itself or on the call record data) in order to exact more money from unwitting consumers. For example, the call record for a two minute call can be subsequently manipulated to report, for billing purposes, a four minute call. Another example would be where a carrier subsequently manipulates a call record to reflect a more expensive call type i.e. changing an automated operator call to a more expensive live operator call. In another outrageous example, an employee of Teltrust made one collect call from a hospital in Oregon to his home in Salt Lake City, Utah. When the employee received his bill for the call (enclosed with the LEC bill), the record showed that instead of one call being made, three collect calls were made (all for different durations) but at the exact same time. In this instance, either one of two scenarios could have occurred: (1) the OSP that processed the call made a mistake; or (2) the OSP intentionally manipulated the call record in order to obtain triple the revenue from a unsuspecting caller.

Teltrust certainly believes the majority of carriers do not intentionally engage in such dishonest practices. The Commission should, nevertheless, aggressively enforce its rules in instances where carriers intentionally defraud consumers.

⁵ See Comments of the Intellical Companies, April 12, 1996 at p. 6.

D. THE COMMISSIONS SHOULD TERMINATE THE BPP PROCEEDING.

Teltrust joins the majority of other participants in this docket who now believe the costs of BPP significantly outweigh any benefits to consumers. BPP has, as nearly all commenters now concede, been upstaged by the many changes in the competitive marketplace (i.e. dial-around, access products like 800 CALL ATT, prepaid calling cards, etc) and the beneficial changes brought about by TOCSIA. Despite this, the Commission has proposed to keep the BPP issue alive on the theory that its implementation may become more cost effective in an environment where Local Number Portability is provided at the local level via a data-base solution. RBOC commentors in this proceeding are in almost unanimously stated that this is an incorrect assumption and that the cost of BPP will not decrease in the future.⁶ Therefore, once the Commission has addressed the remaining problem of rate gouging by implementing a rate ceiling and the other protections discussed herein, it should terminate the BPP proceeding once and for all. The Commission should recognize that small carriers have, for the last six years, operated with the dark cloud of BPP hanging over their heads. COMPTTEL was completely accurate in pointing out that this has had subtle but pernicious effects on small carriers. It is indeed difficult to raise capital when potential investors are informed that a pending regulatory proceeding could have an extremely negative impact on your ability to compete.

E. CONCLUSION.

The final limited step of implementing the Coalition Rate-Ceiling along with its simplified enforcement mechanism will provide consumers with sufficient protection significantly lower the incidence of complaints at the Commission.

⁶ See Comments of US West, Inc. and Bell Atlantic, BellSouth and NYNEX.

For the foregoing reasons, Teltrust urges the Commission to adopt the Coalition Rate-Ceiling proposal and, if necessary, require that all OSPs with rates exceeding the Coalition Rate Ceiling to provide the disclaimer noted herein.

Respectfully submitted,

TELTRUST COMMUNICATIONS SERVICES, INC

A handwritten signature in black ink, appearing to read 'S. Swenson', is written over a solid horizontal line.

Steven E. Swenson
Vice President & General Counsel

August 15, 1996

CERTIFICATE OF SERVICE

I, SAILA CEDERLOF, hereby certify that a copy of the foregoing **Reply Comments of Teltrust Communication Services, Inc.** was sent, this 15th day of August 1996, by U.S. first-class mail, unless otherwise indicated, to the following individuals:

Reed E. Hundt
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Susan P. Ness
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

Regina M. Keeney
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

John Muletta
Federal Communications Commission
2025 M Street, N.W., Room 6206-A
Washington, D.C. 20554

James H. Quello
Federal Communications Commission
1919 M Street, N.W. Room 802
Washington, D.C. 20554

Rachelle B. Chong
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

Mark Nadel
Federal Communications Commission
1919 M Street, N.W., Room 544
Washington, D.C. 20554

Adrien R. Auger
Federal Communications Commission
2025 M Street, N.W., Room 6120
Washington, D.C. 20554

Enforcement Division
Common Carrier Bureau
Federal Communications Commission
2025 M Street, N.W., Room 6008
Washington, D.C. 20554

International Transcription Services, Inc.
2100 M Street, N.W., Suite 140
Washington, D.C. 20037


Saila Cederlof